1946

File No. B. Munes. Distt. & Munes. Boroughs/46

Legal Department

B BRANCH

Subject:— A Bill to amend the Bombay District Municipal Act and the Bombay Municipal Boroughs Act 1925

(Amendment of Secs. 59(ii) and 73(ii))

(Bom. VII of 1946)

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File No. B. Munes. Distt. & Munes Boroughs/46 (amendment)

Gen. 194 e.

316-15

Office of the R.L.A

A revised draft Bill and statement are sent herewith.

2. The subject matter of the Bill falls under entry No. 13 read with entry No. 48A in List II in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, or paragraph (2) of the Proclamation. Under executive instructions the Bill requires the previous concurrance of the Governor General.

Sd/-P.N.M.

Remembrancer of Legal Affairs.

U.R. to G.D. No. 626 , dated the 22nd January 1945.

S.C. 16/7

4 copies.

No. 1873

Legal Department.
Bombay Castle, 6th March 1946.

From

P.N.Moos, Esquire, Bar-at-law, I.C.S.
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject .- A Bill to amend the Bombay District Municipal Act, 1901 and the Bombay Municipal Boroughs Act, 1925.

Sir,

With reference to your Memorandum No. 201(117), dated the 27th February 1945, addressed to the General Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November/ 1939 issued by him under section 93 of the Government of India Act, 1935.

2. The subject-matter of the Bill falls under entry No. 13 read with entry No. 48A in List II in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the ~~x~~ endorsement.

4. I also forward herewith one spare copy of the Bill.

Your obedient servant,

Sd/-P.N.M.
6-3-46.

Secretary to the Government of Bombay
Legal Department.

Through
The Secretary to the Government of Bombay
General Department.

No. G.S. 731.
Office of the Governor's Secretary
Government House,

From

G. G. Dreve, Esquire, OBE, ICS.
Secretary to Governor of Bombay.

To

The Secretary to Government,
Legal Department.
Bombay, 14th March 1946.

Subject .- The Bombay District Municipal and Municipal Boroughs (Amendment) Bill, 1946.

Sir,

With reference to your letter No. 1873, dated 6th March 1946, on the above subject, I am directed to return herewith the copy of the Bombay District Municipal and Municipal Boroughs(Amendment) Bill, 1946, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935. and to state that under the provisions of the aforesaid paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient servant.

Secretary to the Governor of
Bombay.

S. C. 16/7
4 copies.

Acts.

Publication of the Bombay District Municipal and Municipal Borouths (Amendment) Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 2218
Bombay Castle, 22nd March 1946.

Letter to the Secretary to the Governor, No. 1873, dated the 6th March 1946.

Letter from the Secretary to the Governor, No. G.S. 731 dated the 14th March 1946.

With reference to your letter No. 1873, dated 6th March 1946, on the above subject, I am directed to return herewith the copy of the Bombay District Municipal and Municipal Boroughs (& Amendment) Bill, 1946, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

RESOLUTION.- the law should be published as Bombay Act. No. VII of 1946, in the Bombay Government Gazette dated the 28th March 1946.

2. The Act should be translated into Marathi, Gujarathi, Kannada and Hindustani (in Urdu and Devnagari Scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the General Department.

By order of the Governor of Bombay.

Sd/-M.G.MONA-Ni,
Assistant Remembrancer of Legal Affairs.

To

The Manager, Government Central Press, Bombay,
(with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).

The General Department.

* The Oriental Translator to Government,) with a copy of the Act.
The Secretary to the Bombay Legislative Council,)
The Secretary to the Bombay Legislative Assembly),)

*with five extra copies.

Office of the R.L.A .

Amendment of the Bombay Municipal Boroughs Act, 1925 is necessary.

Amendment of the Bombay District Municipal Act, 1901 though not essential if Government propose to issue directions as to which Magistrates should hear appeals, is expedient in order to enable the Chief Presidency Magistrate to discharge the functions of the District Ex Magistrate.

Id/-
P.N.M.
27/6/46.

Remembrancer of Legal Affairs.

U.R. to G.D. No. 4687 , dated the 29th June 1946 .

S.C. 16/7
4 copies.

21 89. 64

Bombay Act No. VII of 1946.

~~GOVERNOR'S BILL No. VII OF 1946.~~

An Act

~~A Bill~~ *to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925.*

Bom. III of 1901. Bom. XVIII of 1925.

WHEREAS it is expedient to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the Bombay District Municipal and Municipal Boroughs (Amendment) Act, 1946.

Bom. III of 1901.

Amendment of section 59 of Bom. III of 1901.

2. To clause (*ii*) of section 59 of the Bombay District Municipal Act, 1901, the following shall be added, namely:—

"whether they are actually kept within or outside the said district:

Provided that where a motor vehicle is kept for use within the said district as well as another municipal district or municipal borough (as defined in the Bombay Municipal Boroughs Act, 1925), it shall be liable to be taxed only by the municipality within, or nearest to, whose limits such vehicle is actually kept."

Bom. XVIII of 1925.

Bom. XVIII of 1925.

Amendment of section 73 of Bom. XVIII of 1925.

3. To clause (*ii*) of section 73 of the Bombay Municipal Boroughs Act, 1925, the following proviso shall be added, namely:—

"Provided that where a motor vehicle is kept for use within the said borough as well as another municipal borough or municipal district, it shall be liable to be taxed only by the municipality within, or nearest to, whose limits such vehicle is actually kept."

SM Bk H 1245

STATEMENT.

In Chunilal Jethalal *vs.* Ahmedabad Borough Municipality reported in 41 Bom. L. R. 1249, the Bombay High Court held that the words "kept for use" used in section 73 (*ii*) of the Municipal Boroughs Act, 1925, mean "kept for normal use", and not kept with the object of being mainly used in that area. In view of this decision the right of a borough municipality to levy wheel tax on motor vehicles depends on the question whether a particular vehicle makes a normal use of its roads and it is not necessary for liability to wheel tax that a motor vehicle should use the roads of that municipality extensively. In the case of municipalities governed by the Bombay District Municipal Act, 1901, however, motor vehicles are liable to wheel tax only if they are also garaged within the municipal areas (See Surat City Municipality *vs.* Maneklal, 22 Bom. L. R. p. 1104). In other words, motor vehicles plying between two or more borough municipalities are liable to be taxed by both or all of them, while motor vehicles plying between two municipal districts are liable to be taxed only if they are garaged within the said municipal limits. The provisions of the Boroughs Act are thus more onerous than those of the District Act. But the provisions of the latter Act also leave a loophole for bus-owners who may try to evade the payment of wheel-tax by garaging their vehicles just outside municipal limits. It is, therefore, desirable to amend both the Acts so that such motor vehicles shall not escape wheel-tax, but shall be liable to it in one municipal area only.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.